

Officer Involved Shootings or Deaths

305.1 PURPOSE AND SCOPE

This section establishes policy for the investigation of an incident in which a person is injured or dies as the result of a probation officer-involved shooting or dies as a result of other action of an officer.

In other incidents not covered by this policy, the Chief Probation Officer may decide that the investigation will follow the process provided in this policy.

305.2 APPLICABILITY

This policy is applicable to all Department employees.

305.3 POLICY

Actions by probation officer(s) resulting in serious injury or death will be evaluated. The involved officer(s) will necessarily be subjected to several types of investigations, which are described in this section. The involved officer(s) shall comply with the investigations as outlined in the policy.

305.4 OFFICER RESPONSIBILITIES

A probation officer, who shoots a person, utilizes use of force resulting in serious injury or death or involved in a traffic collision resulting in serious injury, death, or major property damage, in the line of duty shall report the incident, including any apparent physical injuries, to the Communications Center and the agency of jurisdiction. Officers may place a 9-1-1 emergency call in the event their radio is inoperable.

305.5 TYPES OF INVESTIGATIONS

Officer-involved shootings, or use of force resulting in serious injury or death, involve several separate investigations. The investigations may include:

- A criminal investigation of the suspect's actions.
- A criminal investigation of the involved officer's actions.
- An administrative investigation as to policy compliance by involved officers.
- A civil investigation to determine potential liability.

305.6 CONTROL OF INVESTIGATIONS

Primary responsibility for the investigation of an incident as described in the section 305.5 rests with the agency in whose jurisdiction the incident occurs.

305.7 ADMINISTRATIVE AND CIVIL INVESTIGATION

Regardless of where the incident occurs, the administrative and civil investigation of each involved officer is controlled by the respective employing agency.

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305.8 INVESTIGATION PROCESS

The following procedures are guidelines used in the investigation of an officer-involved shooting or action resulting in serious injury or death.

305.9 NOTIFICATIONS

The following person(s) shall be notified as soon as practicable:

- Involved Officer's Direct Supervising Probation Officer
- Division Chief
- Deputy Chief Probation Officer
- Assistant Chief Probation Officer
- Chief Probation Officer
- Internal Affairs Unit Supervisor
- County Counsel
- Psychological/peer support personnel
- Chaplain
- Involved officer's association representative
- Public Safety Group Public Information Officer

305.10 INVOLVED OFFICER(S)

The following shall be considered for the involved officer:

Any request for legal or union representation will be accommodated.

- Involved probation officer shall not be permitted to meet collectively or in a group with an attorney or any representative prior to providing a formal interview or report.
- Request from involved non-probation officers should be referred to their employing agency.

Discussions with licensed attorneys will be considered privileged as attorney-client communications. Discussions with agency representatives/employee groups will be privileged only as the discussion of non-criminal information (Government Code § 3303(i)).

For officer involved shooting or death incidents, a licensed psychotherapist shall be provided by the Department to each involved probation officer. A licensed psychotherapist may also be provided to any other affected probation employees, upon request.

- Interviews with licensed psychotherapist will be considered privileged.
- An interview or session with a licensed psychotherapist may take place prior to the employee providing a formal interview or report. However, involved employees shall not be permitted to consult or meet collectively or in a group with a licensed psychotherapist prior to providing a formal interview or report.

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A separate fitness-for-duty exam may also be required.

Although the Department will honor the sensitivity of communications with peer counselors, there is no legal privilege to such communications. Peer counselors are cautioned against discussing the facts of any incident with an involved or witness officer.

Each involved probation officer shall be given reasonable paid administrative leave following an officer-involved shooting or death. It shall be the responsibility of the Supervising Probation Officer to make schedule adjustments to accommodate such leave.

305.11 ADMINISTRATIVE INVESTIGATION

This Department will conduct an internal administrative investigation of probation officers to determine conformance with Department policy. The investigation will be conducted under the supervision of the Internal Affairs Unit and will be considered confidential official information and part of a confidential peace officer personnel file.

Interviews of employees shall be subject to Department policies and applicable laws.

- (a) Any officer involved in a shooting or death may be requested or administratively compelled to provide a blood sample for alcohol/drug screening. Absent consent from the officer, such compelled samples and the results of any such testing shall not be disclosed to any criminal investigative agency.
- (b) If any officer has voluntarily elected to provide a statement to criminal investigators, the assigned administrative investigator should review that statement if available, before proceeding with any further interview of that involved officer.
 - If a further interview of the officer is deemed necessary to determine policy compliance, care should be taken to limit the inquiry to new areas with minimal, if any, duplication of questions addressed in the voluntary statement. The involved officer shall be provided with a copy of his/her prior statement, if available, before proceeding with any subsequent interviews.
- (c) In the event that an involved officer has elected to not provide criminal investigators with a voluntary statement, the assigned administrative investigator shall conduct an administrative interview to determine all relevant information.
 - Although this interview should not be unreasonably delayed, care should be taken to ensure that the officer's physical and psychological needs have been addressed before commencing the interview.
 - If requested, the officer shall have the opportunity to select an uninvolved representative to be present during the interview. However, in order to maintain the integrity of each individual officer's statement, involved officers shall not consult or meet with a representative or attorney collectively or in groups prior to being interviewed (Government Code § 3303(i)).
 - Administrative interviews should be recorded by the investigator. The officer may also record the interview (Government Code § 3303(g)).

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- The officer shall be informed of the nature of the investigation. If an officer refuses to answer questions, he/she should be given his/her Lybarger or Garrity rights and ordered to provide full and truthful answers to all questions. The officer shall be informed that the interview will be for administrative purposes only and that the statement cannot be used criminally.
- The Internal Affairs Unit shall compile all relevant information and reports necessary for the Department to determine compliance with applicable policies.
- Regardless of whether the use of force is an issue in the case, the completed administrative investigation shall be submitted to the Use of Force Review Board, which will restrict its findings as to whether there was compliance with the Use of Force Policy.
- Any other indications of potential policy violations shall be determined in accordance with standard disciplinary procedures.

305.12 AUDIO AND VIDEO RECORDINGS

Any officer involved in a shooting or death may be permitted to review available Mobile Audio/Video (MAV), body-worn video, or other video or audio recordings, if available, prior to providing a recorded statement or completing reports.

Upon request, non-law enforcement witnesses who are able to verify their presence and their ability to contemporaneously perceive events at the scene of an incident may also be permitted to review available MAV, body-worn video, or other video or audio recordings with approval of assigned investigators or a Supervisor.

Any MAV, body-worn and other known video or audio recordings of an incident should not be publicly released during an ongoing investigation without consulting the prosecuting attorney or County Counsel's Office, as appropriate.

305.13 CIVIL LIABILITY RESPONSE

The Office of County Counsel Claims Division shall be notified of the incident no later than the next business day, and that Office will handle matters related to civil liability

305.14 DEBRIEFING

Following an officer-involved shooting or death, the San Diego County Probation Department should conduct both acritical incident/stress debriefing and a tactical debriefing.

305.14.1 CRITICAL INCIDENT/STRESS DEBRIEFING

A critical incident/stress debriefing should occur as soon as practicable. The Division Chief is responsible for organizing the debriefing. Notes and recorded statements should not be taken because the sole purpose of the debriefing is to help mitigate the stress-related effects of a traumatic event. A critical incident/stress debriefing should be conducted on a confidential basis, with no minutes or summaries retained.

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The critical incident/stress debriefing is not part of any investigative process. Care should be taken not to release or repeat any communication made during a debriefing unless otherwise authorized by policy, law or a valid court order.

Attendance at the critical incident/stress debriefing shall only include those employees of the Department directly involved in the incident, which can include support personnel. Family or other support personnel may attend with the concurrence of those involved in the incident. The critical incident/stress debriefing shall be closed to the public and should be closed to all other employees of the Department, including Supervisory and Internal Affairs Unit personnel.

All attendees at a critical incident/stress debriefing shall have an opportunity to participate as equals, without regard to relative rank or subordinate employment classification.

305.14.2 TACTICAL DEBRIEFING

A tactical debriefing should take place to identify any training or areas of policy that need improvement. The Chief Probation Officer should identify the appropriate participants. This debriefing should not be conducted until all involved employees have provided recorded or formal statements to criminal and/or administrative investigators.

305.15 MEDIA RELATIONS

Any media release shall be prepared with input and concurrence from the Deputy Chief Administrative Officer for the Public Safety Group, the Director of the County Communications Office, County Counsel, the Deputy Chief Probation Officer and Department representative responsible for each phase of the investigation.

The Department shall not subject any involved probation officer to visits by the media (Government Code § 3303(e)). No involved probation officer shall make any comment to the media unless he/she is authorized by the Chief Probation Officer or Assistant Chief Probation Officer. Department employees receiving inquiries regarding officer-involved shootings or deaths occurring in other jurisdictions shall refrain from public comment and will direct those inquiries to the agency having jurisdiction and primary responsibility for the investigation.